



CERTIFIED MAIL - RETURN RECEIPT REQUESTED

UCAR International, Inc.
39 Old Ridgebury Road, Section J4
Danbury, Connecticut 068 17

Attention: Peter Mancino
Vice President and General Counsel.

Dear Mr. Mancino:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described below. UCAR International, Inc. (hereinafter referred to as UCAR), has violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (3000)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. And Pub. L. No. 106-508, November 13, 2000)).²

Facts constituting violations:

Charges 1-38

As described in greater detail in the Schedule of Violations, which is enclosed herewith and

¹ The alleged violations occurred in 1995, 1996 and 1997. The Regulations governing the violations at issue are found in the 1995, 1996 and 1997 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995) and 15 C.F.R. Parts 768-799 (1996), as amended (61 Fed. Reg. 12714, March 25, 1996)) (hereinafter "the former Regulations") and 15 C.F.R. Parts 730-774 (1997)). The March 25, 1996 Federal Register publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 Federal Register publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations and the Regulations define the various violations that BXA alleges occurred. The Regulations establish the procedures that apply to this matter.

² During the time of the Act's lapse (August 20, 1994 through November 12, 2000,) the President, through Executive Order 12934 (3 C.F.R., 1994 Comp. 917 (1995)), which has been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 Fed. Reg. 48347, August 8, 2000), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 2000)).

incorporated herein by reference, on 38 separate occasions between on or about September 9, 1995 and on or about May 23, 1996, UCAR exported U.S.-origin Grade ATJ graphite from the United States to Australia, Brazil, Chile, France, Japan, South Africa and South Korea without the validated licenses that were required by Section 772.1(b) (redesignated as Section 772.A.1(b) on March 25, 1996) of the former Regulations. BXA alleges that by exporting U.S.-origin ATJ Grade graphite to any person or destination or for any use in violation of or contrary to the Regulations, UCAR committed 38 violations of Section 787.6 of the former Regulations.

Charge 9

As described in greater detail in the Schedule of Violations, which is enclosed herewith and incorporated herein by reference, on one occasion on or about June 13, 1996, UCAR exported, from the United States to France U.S.-origin ATJ Grade graphite without the validated license required by Section 772.1(b) (redesignated as Section 772.A.1(b) on March 25, 1996) of the former Regulations. BXA alleges that by exporting U.S.-origin commodities to any person or destination in violation of or contrary to the Regulations, UCAR committed one violation of Section 787A.6 of the former Regulations.

Charges 40-79

As described in greater detail in the Schedule of Violations, which is enclosed herewith and incorporated herein by reference, on 40 occasions on or about May 24, 1996, and on or about August 12, 1997, UCAR, exported U.S.-origin ATJ Grade graphite from the United States to Australia, Brazil, Columbia, France, Japan and South Africa without the export licenses that were required by Section 742.5(a) of the Regulations. BXA alleges that by engaging in conduct prohibited by or contrary to the Regulations, UCAR committed 40 violations of Section 764.2(a) of the Regulations.

BXA alleges that UCAR committed 38 violations of Section 787.6 and one violation of Section 787A.6 of the former Regulations; 40 violations of Section 764.2 (a) of the Regulations; for a total of 79 violations of the Regulations.

Accordingly, UCAR is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions, including any or all of the following:

- a. The maximum civil penalty of \$10,000 per violation (~~see~~ Section 764.3(a)(1) of the Regulations);³
- b. Denial of export privileges (~~see~~ Section 764.3(a)(2) of the Regulations); and/or

³ The maximum civil penalty for any violation committed after October 23, 1996 is \$11,000 per violation. ~~See~~ 15 C.F.R. § 6.4(a)(3) (1999).

- c. Exclusion from practice (see Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed.

If UCAR fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7. UCAR is further notified that it is entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with its answer, to be represented by counsel, and to seek a settlement.

Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Accordingly, UCAR's answer should be filed with the U.S. Coast Guard AI-J Docketing Center, 40 S. Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of UCAR's answer should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: Lairold M. Street, Esq." below the address. Mr. Street may be contacted by telephone at (202) 482-5311.

Sincerely,

Mark D. Menefee
Director
Office of Export Enforcement

Enclosures

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)
)
UCAR INTERNATIONAL, INC.)
3 102 West End Avenue)
Suite 1100)
Nashville, Tennessee 37203)
)
Respondent

SETTLEMENT AGREEMENT

This Agreement is made by and between UCAR International, Inc. (hereinafter referred to as UCAR) and the Bureau of Export Administration, United States Department of Commerce, pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2000)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 2000) and Pub. L. No. 106-508) (the Act).²

¹ The alleged violations occurred in 1995, 1996 and 1997. The Regulations governing the violations at issue are found in the 1995, 1996 and 1997 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995) and 15 C.F.R. Parts 768-799 (1996), as amended (61 **Fed. Reg.** 12714, March 25, 1996)) (hereinafter “the former Regulations”) and 15 C.F.R. Parts 730-774 (1997)). The March 25, 1996 **Federal Register** publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 **Federal Register** publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations define the various violations that BXA alleges occurred. The Regulations establish the procedures that apply to this matter.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), which had been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 **Fed. Reg.** 48347, August 8, 2000), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 2000)) until November 13, 2000 when the Act was reauthorized. See Pub. L. No. 106-508.

WHEREAS, the Bureau of Export Administration (BXA), has notified UCAR of its intention to initiate an administrative proceeding against UCAR pursuant to the Act and the former Regulations and the Regulations, based on allegations that, on 38 separate occasions between on or about September 9, 1995 and on or about May 22, 1996, UCAR exported ATJ grade graphite from the United States to Australia, Brazil, Chile, France, Japan, South Africa and South Korea without obtaining the validated export licenses required by Sections 772.1(b) and 772A.1(b) of the former Regulations, in violation of Sections 787.6 and 787A.6 of the former Regulations; on one occasion on or about June 13, 1996, UCAR exported from the United States to France U.S.-origin ATJ Grade graphite without the required validated license required by Section 772A.1(b) of the former Regulations, in violation of Section 787A.6 of the former Regulations; and on 40 separate occasions between on or about May 24, 1996, and on or about August 12, 1997, UCAR, exported U.S.-origin ATJ Grade graphite from the United States to Australia, Brazil, Columbia, France, Japan and South Africa without the export licenses that were required by Section 742.5(a) of the Regulations, in violation of Section 764.2(a) of the Regulations;

WHEREAS, UCAR has reviewed the proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; UCAR fully understands the terms of this Settlement Agreement and the Order; UCAR enters into this Settlement Agreement voluntarily and with full knowledge of its rights, and UCAR states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, UCAR neither admits nor denies the allegations contained in the proposed Charging Letter;

WHEREAS, UCAR wishes to settle and dispose of all matters alleged in the proposed Charging Letter by entering into this Settlement Agreement; and

WHEREAS, UCAR agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (Order);

NOW THEREFORE, UCAR and BXA agree as follows:

1. BXA has jurisdiction over UCAR, under the Act and the former Regulations and the Regulations in connection with the matters alleged in the proposed Charging Letter.

2. BXA and UCAR agree that the following sanctions shall be imposed against UCAR in complete settlement of all alleged violations of the Act and the former Regulations and the Regulations arising out of the transactions set forth in the proposed Charging Letter:

(a) UCAR shall be assessed a civil penalty in the amount of \$237,000. UCAR shall pay \$100,000 of the penalty to the U.S. Department of Commerce within 90 days from the date of entry of the Order. Payment of the remaining \$137,000 shall be made within 180 days from the date of entry of the Order.

(b) As authorized by Section 11(d) of the Act, the timely payment of the civil penalty agreed to in paragraph 2a. is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to UCAR. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of UCAR's export privileges for a period of one year from the date of entry of the Order imposing the civil penalty.

3. UCAR agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Settlement Agreement or the Order, when entered), including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the proposed Charging Letter; (b) to request a refund of any civil penalty paid pursuant to this Settlement Agreement and the Order, when entered; and (c) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the Order, when entered.

4. BXA agrees that, upon entry of an Order, it will not initiate any administrative proceeding against UCAR in connection with any violation of the Act or the former Regulations and the Regulations arising out the transactions identified in the proposed Charging Letter.

5. UCAR understands that BXA will make the proposed Charging Letter, this Settlement Agreement, and the Order, when entered, available to the public.

6. BXA and UCAR agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an Order is not issued by the Assistant Secretary for Export Enforcement pursuant to Section 766.18(a) of the Regulations, BXA and UCAR agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that the parties shall not be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the Order, when entered, nor shall this Settlement Agreement serve to bind,

constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Settlement Agreement shall become binding on BXA only when the Assistant Secretary for Export Enforcement approves it by entering an Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

BUREAU OF EXPORT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

UCAR International, Inc.

BY: Mark D. Menefee
Mark D. Menefee
Director
Office of Export Enforcement

BY: Karen G. Narwold
Karen G. Narwold
Vice President and General Counsel

Date: 5/10/07

Date: May 4, 2001

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)
)
UCAR INTERNATIONAL, INC.)
3 102 West End Avenue)
Suite 1100)
Nashville, Tennessee 37203,)
)
Respondent)

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having notified UCAR International, Inc. (hereinafter referred to as UCAR) of its intention to initiate an administrative proceeding against UCAR pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 2000) and Pub. L. No. 106-508) (the Act)’ and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2000)) (the Regulations),’ based on

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), which had been extended by successive Presidential Notices, the most recent being that of August 3, 2000 (65 **Fed. Reg.** 48347, August 8, 2000), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 2000)) until November 13, 2000 when the Act was reauthorized. See Pub. L. No. 106-508.

² The alleged violations occurred in 1995, 1996 and 1997. The Regulations governing the violations at issue are found in the 1995, 1996 and 1997 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995) and 15 C.F.R. Parts 768-799 (1996), as amended (61 **Fed. Reg.** 12714, March 25, 1996)) (hereinafter “the former Regulations”) and 15 C.F.R. Parts 730-774 (1997)). The March 25, 1996 **Federal Register** publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 **Federal Register** publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations define the various violations that BXA alleges occurred. The Regulations establish the procedures that apply to this matter.

allegations that, on 38 separate occasions between on or about September 9, 1995 and on or about May 22, 1996, UCAR exported U.S.-origin grade ATJ graphite from the United States to Australia, Brazil, Chile, France, Japan, South Africa and South Korea without obtaining the validated export licenses required by Section 772.1(b) and Section 772A. 1(b) of the former Regulations, in violation of Section 787.6 and 787A.6 of the former Regulations; on one occasion on or about June 13, 1996, UCAR exported from the United States to France ATJ Grade graphite without the required validated license required by Section 772A.1(b) of the former Regulations, in violation of Section 787A.6 of the former Regulations; and on 40 separate occasions between on or about May 24, 1996, and on or about August 12, 1997, UCAR, exported U.S.-origin ATJ Grade graphite from the United States to Australia, Brazil, Columbia, France, Japan and South Africa without the export licenses that were required by Section 742.5(a) of the Regulations, in violation of Section 764.2(a) of the Regulations; and

BXA and UCAR having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

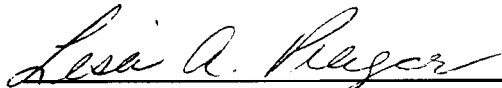
FIRST, that a civil penalty of \$237,000 is assessed against UCAR. UCAR shall pay \$100,000 of the civil penalty to the U.S. Department of Commerce within 90 days from the date of entry of this Order. Payment of the remaining \$137,000 shall be made within 180 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, UCAR will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that, as authorized by Section 11(d) of the Act, the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, License Exception, permission, or privilege granted, or to be granted by the Bureau of Export Administration, to UCAR. Accordingly, if UCAR should fail to pay the civil penalty in a timely manner, the undersigned will enter an Order under the authority of Section 11(d) of the Act denying all of UCAR's export privileges for a period of one year from the date of entry of this Order.

FOURTH, that the proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.



Lisa A. Prager
Acting Assistant Secretary
for Export Enforcement

Entered this 22 day of May, 2001.

UNITED STATES DEPARTMENT OF COMMERCE NEWS

WASHINGTON, D.C. 20230

BUREAU OF
EXPORT
ADMINISTRATION

FOR IMMEDIATE RELEASE
May 22, 2001
www.bxa.doc.gov

CONTACT: Eugene Cottilli
(202) 482-2721

TENNESSEE COMPANY SETTLES CHARGES OF UNLAWFUL EXPORTS OF GRAPHITE

Department of Commerce The Acting Assistant Secretary for Export Enforcement, Lisa A. Prager, today announced that a \$237,000 civil penalty has been imposed on UCAR International, Inc., of Nashville, Tenn. The penalty settles allegations that the company illegally exported ATJ grade graphite to various foreign countries for over a period of two years. The Commerce Department's Bureau of Export Administration controls ATJ grade graphite because of its usage in rocket nozzles and reentry vehicle nose tips.

In 1997, the Washington Area Field Office learned that within one month's time, UCAR had applied for several export licenses for graphite. UCAR did not have a history with the Department of Commerce of exporting graphite, although they had applied for export licenses for other commodities in the past.

A four-year investigation revealed that from September 1995 through August, 1997, UCAR had, on at least 38 occasions, exported various grades of fine and superfine graphite to multiple foreign destinations without the required Commerce Department export licenses.

Acting Assistant Secretary Prager commended the efforts of David Nardella and Mark Cavallucci, former agents of the Washington Area Field Office, and Agent David Martin for their work during this investigation.

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